

Fairfield City Council

Submission to the proposed amendments to the Standard Instrument Local Environmental Plan

15 May 2018

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INTRODUCTION

In April 2018, the NSW Department of Planning and Environment (DP&E) released proposed amendments to the Standard Instrument (SI) LEP for public consultation.

Submissions on the proposed amendments are due to DP&E by 18 May 2018.

A report (Attachment A) was presented to Council's Outcomes Committee on 8 May 2018 detailing comments and issues associated with the proposed legislation changes. As a result, Council at its meeting on 8 March 2018 resolved the following:

That the content of the report form the basis for a submission to the Department of Planning and Environment on the proposed Standard Instrument Local Environmental Plan amendments

The content of the Outcomes Committee report has provided the basis for Council's submission on the proposed amendments to the SI LEP.

RESPONSE TO PROPOSED STANDARD INSTRUMENT LEP AMENDMENTS

A. Artisan premises

Artisan premises are a new proposed definition. Artisan premises cater for boutique, craft or artisan food and drink products that are increasingly popular among consumers seeking an alternative to mass-manufactured offerings. As an example, some councils have identified microbreweries as a type of artisan premises that do not have a clear land use definition. The proposed definition of artisan premises is as follows:

Artisan premises

A building or place used to produce and/or process food and beverages on site, without being fully automated.

It can also include:

- a) a restaurant or café;*
- b) tastings;*
- c) tours;*
- d) sales; and*
- e) workshops.*

It is proposed that artisan premises be added as a permissible use within zones that permit light industrial uses on the basis that they are a cross between an industrial and retail use.

The SI LEP currently mandates light industries in four zones:

- B5 Business Development
- B6 Enterprise Corridor
- IN1 General Industrial
- IN2 Light Industrial

The DPE identify that future strategic planning would allow councils to determine appropriate locations to permit/prohibit artisan premises within LEPs.

Comments

The proposed introduction of artisan premises is generally supported in-principle. However, Council currently prohibits retail uses, restaurants and cafes from the industrial zones, except for take away food and drink premises and neighbourhood shops which are mandated by the SI LEP.

Councils seek that the DPE refine the definition to ensure that the restaurant and café be restricted to purely a complementary use to the artisan premises. This could potentially be restricted through Clause 5.4 which is proposed for neighbourhood shops. Discretion should be permitted for the size in square metres of the ancillary restaurant. This will remove uncertainty and the potential for restaurants and cafes to be developed in the industrial area with a token artisan premises. It will also remove ambiguity distinguishing between a restaurant/café that produces some “artisan style products for sale” and an actual artisan premises.

B. Garden centre

Garden centre is an existing definition within the SI LEP that is proposed to be amended. The current definition identifies primary and secondary activities that can occur on a site. The amendment seeks to remove ambiguity.

The current definition is as follows:

Garden centre means a building or place the principal purpose of which is the retail sale of plants and landscaping and gardening supplies and equipment. It may, if ancillary to the principal purpose for which the building or place is used, include a restaurant or cafe and the sale of any the following:

- a) outdoor furniture and furnishings, barbecues, shading and awnings, pools, spas and associated supplies, and items associated with the construction and maintenance of outdoor areas,*
- b) pets and pet supplies,*
- c) fresh produce.*

The proposed new definition is as follows:

Garden Centre

A building or place where the principal purpose is the sale of:

- a) Plants; and / or*
- b) Landscaping and gardening supplies and equipment*

A garden centre may also include a restaurant or cafes and the sale of:

- a) Outdoor furniture and furnishings;*
- b) Barbeques;*
- c) Shading and awnings;*
- d) Pools, spas and associated supplies;*
- e) Items associated with the construction, maintenance and improvement of outdoor areas;*
- f) Pets and pet supplies;*
- g) Fresh produce.*

Comments

The proposed change is supported in-principle and is generally minor in nature as it seeks to remove ambiguity. However, the definition does refer to cafés rather than café while also removing the limitation that these be ‘ancillary’. It is requested that the DPE amend the definition so that it refers to a singular café rather than cafes as this may lead to garden centres having multiple cafes on site thereby turning them into a defacto food precinct.

C. Local distribution premises

Local distribution premises are a new proposed definition to be included within the SI LEP. The DPE has identified a gap in the land use definitions for smaller local distribution premises which provide an important final leg of parcel delivery. It is identified that these goods are moved in and out at a high turnover for delivery to local areas in an efficient manner.

The proposed new definition is as follows:

Local Distribution Premises

A building or place used for storing or handling items purchased or ordered for local delivery, but from which no retail sales are initiated.

It is proposed that these types of facilities are intended to be of a scale appropriate for local deliveries, rather than those of a regional, national or global scale.

The DPE proposes that the new definition will be permissible in areas where warehouse and distribution centres are currently permissible. In Fairfield LGA, warehouse and distribution centres are a permissible use in the following zones:

- B5 Business Development
- B6 Enterprise Corridor
- IN1 General Industrial
- IN2 Light Industrial

Comments

The proposal is supported as the introduction of this land use definition is minor in nature and will only be permissible in Fairfield City where larger warehousing and distribution centres are currently permissible.

D. Neighbourhood supermarket

Neighbourhood supermarket is a new proposed definition to be included within the SI LEP. The DPE has identified a need to introduce a definition for Neighbourhood Supermarkets and make these permissible within the B1 Neighbourhood Centre, in order to serve the needs of people who live and work in the surrounding neighbourhood.

The proposed new definition is as follows:

Neighbourhood supermarket

A shop selling food and other household items where the selection of goods is organised on a self-service basis.

It is also proposed to amend Clause 5.4 of the SI LEP to introduce a maximum gross floor area of not more than 1,500 square metres for neighbourhood supermarkets to restrict larger full line supermarkets to higher order centres.

The SI LEP does not separately define supermarkets, which are generally covered by the definition of a shop. The DPE note that the B1 Neighbourhood Centre zone permits neighbourhood shops, however, they are generally restricted to a maximum gross floor area specified in the relevant LEP and would not be able to accommodate mid-size neighbourhood supermarkets.

Comments

In Fairfield City's case, neighbourhood shops are restricted to a maximum of 80 square metres. However, shops are a discretionary use in the B1 Neighbourhood Centre zone and accordingly, Fairfield LEP 2013 permits 'shops' within the B1 Neighbourhood Centre zone. As a result, small scale supermarkets are already permissible within the B1 zone; however there is no floor space restriction in Fairfield LEP 2013.

The proposed introduction of the definition neighbourhood supermarket, is supported in-principle, given Fairfield LEP 2013 already permits shops within the B1 zone. As noted, there is already potential for small scale supermarkets to be developed in the zone and there are a number of examples where small scale supermarkets already exist in the B1 Neighbourhood Centre zone throughout Fairfield City.

This amendment also proposes to formalise a maximum floor area of 1,500 square metres for neighbourhood supermarkets. It should be noted that Fairfield LGA has upwards of 30 centres zoned B1 Neighbourhood Centres. Many of these neighbourhood centres are large enough to potentially accommodate large foot print retail supermarkets up to 1,500 square metres or greater.

As a result, Fairfield City Council's Centres Policy 2015 identifies neighbourhood centres as generally containing less than 2,000 square metres of retail floor space and may also contain a small grocery/supermarket of usually no more than 500 square metres.

Council requests discretion in setting the maximum floor space for neighbourhood supermarkets through Clause 5.4 of the LEP. It is requested that for Fairfield City, neighbourhood supermarkets in B1 zones be permitted to a maximum 500 square metres, on the basis that this floor space is supported by Councils recent Centres Strategy 2015 and the Centres Policy 2015. Should the maximum floor space of a neighbourhood supermarket be set at 1,500 square metres, it would potentially impact the overall hierarchy of centres within Fairfield LGA. This would take away trade from those larger existing centres that are already being impacted by other retail developments permitted in other adjoining areas.

Notwithstanding, should the DPE not support a floor space limit, any development application for a neighbourhood supermarket would still need to be assessed in accordance with Council's Centres Policy 2015.

E. Specialised retail premises (incorporating bulky goods premises)

Specialised retail premises are an amended definition of bulky goods proposed within the SI LEP. The current definition incorporates a two-part requirement: Bulky goods premises must provide a large area for handling, display or storage of goods AND direct vehicular access for customers to load and unload their purchases.

The current definition is as follows:

Bulky goods premises means a building or place the principal purpose of which is the sale, hire or display of bulky goods, being goods that are of such size or weight as to require:

- (a) a large area for handling, display or storage, and*
- (b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire, and including goods such as floor and window supplies, furniture, household electrical goods, equestrian supplies and swimming pools, but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale or hire or display of bulky goods.*

Note.

Bulky goods premises are a type of retail premises—see the definition of that term in this Dictionary.

The DPE exhibited a proposed amendment to the bulky goods premises definition in November 2017. This sought to remove the need to satisfy both requirements by replacing the word ‘AND’ with the word ‘OR’. The DPE received numerous submissions on the matter with it requested that they think more strategically about the definition. In response the DPE will not proceed with that proposed amendment, and have developed a revised approach with a new definition. The proposed definition is seeking to be more specific regarding the types of uses determined as “bulky goods”.

The proposed revised definition is as follows:

Specialised Retail Premises

A building or place used to sell, display or hire:

- a) Automotive parts and accessories;*
- b) Camping, outdoor and recreation goods;*
- c) Electric light fittings;*
- d) Animal supplies;*
- e) Floor, wall and window coverings;*
- f) Furniture, bedding, furnishings, fabric and Manchester and homewares;*
- g) Household appliances, household electrical goods and home entertainment goods;*
- h) Party supplies;*
- i) Swimming pools and spas;*
- j) Office equipment and supplies;*

- k) *Baby and children's goods, children's play equipment and accessories;*
- l) *BBQs, fireplaces and gas appliances;*
- m) *Sporting, cycling, leisure, fitness goods and accessories;*
- n) *Goods and accessories which:*
 - *Require a large area for handling, display and storage of goods; or*
 - *Require direct vehicle access to the building by customers for the purpose of loading or unloading goods into or from their vehicles after purchase or hire.*

It does not include the sale of food, clothing and footwear unless it falls into one of the above categories.

The amendment does not propose any change to the land use tables in terms of permissibility of specialised retail premises. Where bulky goods premises was previously referenced the term specialised retail premises will be substituted.

Comments

The proposed amendment to the definition is generally supported in-principle. The first part of the revised definition provides greater clarity to the community and will assist in the assessment of applications for these specific types of uses.

However, the second part of the revised definition is ambiguous. It provides a potential loophole for retailers selling small goods in bulk rather than the sale of bulky items. These types of retailers should be limited to the existing centres that cater for those smaller types of goods. Should these types of retailers be permitted within the zones where bulky goods are permissible, this would potentially impact the hierarchy of centres outlined in the Fairfield City Centres Policy 2015. It would also potentially takeover appropriate locations for these larger bulky goods retailers to locate.

Accordingly, it is recommended that Council request the DPE amend the definition as follows:

- n) *Goods and accessories which **are of such a size, weight or bulk that:***
 - *Require a large area for handling, display and storage of goods; or*
 - *Require direct vehicle access to the building by customers for the purpose of loading or unloading goods into or from their vehicles after purchase or hire.*

This proposed amendment would provide more certainty and ensure that the uses proposed in the zone do not detrimentally impact other retail centres.

CONCLUSION

The proposed amendments to the Standard Instrument LEP are generally supported in-principle. However, there are a number of points as outlined in detail in the submission with which Council raises concerns.

A summary of the proposed changes are list below:

- Artisan premises – supported in-principle, however it is recommended that the DPE refine the definition to ensure that the restaurant and café be restricted to purely a complementary use to the artisan premises. This could be at Council's discretion and restricted through Clause 5.4, similar to neighbourhood supermarkets.
- Local distribution centre – supported.
- Garden centre – supported in-principle, however, it is ambiguous with regards to the wording in the definition relating to café. Amend wording from “cafés to café” to stop garden centres becoming defacto food precincts outside of town centres.
- Neighbourhood supermarket – supported in-principle, however request that the maximum neighbourhood supermarket size identified within clause 5.4 to be discretionary. It is requested that the maximum neighbourhood supermarket be restricted to 500 square metres. This will be consistent with the strategic planning that has occurred for the City and consistent with Council's recent Centres Strategy 2015 and Centres Policy 2015.
- Specialised retail premises – supported in-principle, however request amendment to the definition as below:
 - n) *Goods and accessories which **are of such a size, weight or bulk that:***
 - *Require a large area for handling, display and storage of goods; or*
 - *Require direct vehicle access to the building by customers for the purpose of loading or unloading goods into or from their vehicles after purchase or hire.*

This proposed amendment would provide more certainty and ensure that the uses proposed in the zone do not detrimentally impact other retail centres.